



DEPARTMENT OF  
**FINANCE**

ARNOLD SCHWARZENEGGER, GOVERNOR

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November 10, 2008

Mr. Mark Leary, Executive Director  
California Integrated Waste Management Board  
1001 Street, MS-1  
P.O. Box 4025  
Sacramento, CA 95812-4025

Dear Mr. Leary:

**Final Report—Colorado Petroleum Products Company, California Used Oil Recycling Fees**

The Department of Finance, Office of State Audits and Evaluations (Finance), has completed its audit of the Used Oil Recycling Fee Returns submitted by Colorado Petroleum Products Company (Colorado) for the period July 1, 2006 through June 30, 2007.

The enclosed report is for your information and use. Colorado's response to the report findings and our evaluation of the response are incorporated into this final report. In accordance with Finance's policy of increased transparency, this report will be placed on our website.

We appreciate the assistance and cooperation of Colorado staff during our audit. If you have any questions regarding this report, please contact Kimberly Tarvin, Manager, or Rich Hebert, Supervisor, at (916) 322-2985.

Sincerely,

*Original signed by:*

David Botelho, Chief  
Office of State Audits and Evaluations

Enclosure

cc: Mr. Tom Estes, Deputy Director, California Integrated Waste Management Board  
Ms. Julie Arico, Accounting Administrator, Administration and Finance Division, California Integrated Waste Management Board  
Ms. Susan Villa, Branch Manager, Administrative and Finance Division, California Integrated Waste Management Board  
Mr. George Mendoza, Audit Manager, Administration and Finance Division, California Integrated Waste Management Board  
Ms. Lori Hugh, Controller, Colorado Petroleum Products Company

# A<sub>N</sub> O<sub>IL</sub> R<sub>ECYCLING</sub> F<sub>EE</sub> A<sub>UDIT</sub>

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## Colorado P<sub>ETROLEUM</sub> P<sub>RODUCTS</sub> C<sub>OMPANY</sub> Used O<sub>IL</sub> R<sub>ECYCLING</sub> F<sub>EE</sub> R<sub>ETURNS</sub> For the P<sub>ERIOD</sub> J<sub>ULY</sub> 1, 2006 through J<sub>UNE</sub> 30, 2007

Prepared By:  
Office of State Audits and Evaluations  
Department of Finance

## **MEMBERS OF THE AUDIT TEAM**

Kimberly A. Tarvin, CPA  
Manager

Rich Hebert  
Supervisor

### **Staff**

Alice Yip

This report is available on our website <http://www.dof.ca.gov>

You can contact our office at:

Department of Finance  
Office of State Audits and Evaluations  
300 Capitol Mall, Suite 801  
Sacramento, CA 95814  
(916) 322-2985

## TABLE OF CONTENTS

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Executive Summary .....	1
Background, Scope, and Methodology.....	2
Results.....	4
Response .....	6
Evaluation of Response .....	8

## EXECUTIVE SUMMARY

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In accordance with an interagency agreement with the California Integrated Waste Management Board (Board), the Department of Finance, Office of State Audits and Evaluations, performed a compliance audit of the used oil recycling fees and industrial oil sales reported by Colorado Petroleum Products Company (Colorado).

The objective of the audit was to determine whether Colorado accurately reported the California used oil sales and remitted the proper fees for the period July 1, 2006 through June 30, 2007. The audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Based on the audit, Colorado underreported 49,470 gallons of lubricating oil resulting in an underpayment of \$7,915 in used oil recycling fees.

This report is intended for the information and use of Colorado and the Board and is not intended to be and should not be used by anyone other than the specified parties. However, this restriction is not intended to limit the distribution of this report, which is a matter of public record.

# BACKGROUND, SCOPE, AND METHODOLOGY

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## Background

The Legislature enacted the California Oil Recycling Enhancement Act (Act) (Public Resources Code, Sections 48600 through 48691) to reduce the illegal disposal of used oil, and to recycle and reclaim used oil to recover valuable natural resources, and to avoid damage to the environment and threats to public health. This Act gives the California Integrated Waste Management Board (Board) the authority to adopt and implement a used oil recycling program, and to collect fees from oil manufacturers at a rate of 16 cents for each gallon of lubricating oil sold, transferred, or used in California. These fees support the California Used Oil Recycling Fund from which various state and local programs are operated. These programs help promote local efforts to recycle used oil before harmful environmental impacts occur.

Colorado Petroleum Products Company (Colorado) is a wholesale distributor and retail seller of fuel, oil, gasoline, and other petroleum products. It is headquartered in Denver, Colorado and operates facilities in Colorado and Arizona. Colorado markets to the Western United States, Mexico, and Asia. Its customer base consists of commercial fuel oil consumers, retail operators, and the general public.

## Scope

The Department of Finance, Office of State Audits and Evaluations, conducted a compliance audit of the California Used Oil Recycling Fee Returns submitted to the Board. The objective of the audit was to determine whether Colorado accurately reported the industrial and lubricating oil sold, transferred, or used in California; and remitted the proper fees in accordance with the terms and conditions of the Act for the period July 1, 2006 through June 30, 2007.

We conducted our audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. In order to design adequate procedures to evaluate the California Used Oil Recycling Fee Returns, we obtained an understanding of the related internal controls. Colorado is responsible for ensuring accurate reporting of the used oil recycling fees and oil sales and ensuring compliance with the Act.

## Methodology

To determine whether Colorado reported the used oil recycling fees and oil sales in accordance with the terms and conditions of the Act, we performed the following procedures:

- Interviewed key personnel.
- Obtained an understanding of the internal controls related to the preparation of the California Used Oil Recycling Fee Returns (Returns).
- Obtained an understanding of the PDS system used for accounting, inventory, and the company database.
- Reviewed Colorado's accounting records and other reports.

- Reviewed the Customer Master List and the Customer List for the sales representative that handles all non-Colorado sales to determine the completeness of California sales reported.
- Traced the gallons of industrial and lubrication oil sold in California reported on the Returns to purchase orders, delivery tickets, bills of lading, invoices, and other relevant documents.
- Determined whether valid exemption certificates were on file for exempt transactions claimed on the Returns.

The results of the audit are based upon our review of documentation and other information made available to us. The audit was conducted May through August 2008.

The Department of Finance, Office of State Audits and Evaluations, completed an audit of the Used Oil Recycling Fee Returns. Based on the audit procedures performed, the following finding requiring corrective action was identified.

**FINDING                      Industrial and Lubricating Oil Sales Were Inaccurately Reported on the California Used Oil Recycling Fee Returns Resulting in an Underpayment of \$7,915**

Condition: Colorado over reported 7,676 gallons of industrial oil and underreported 49,470 gallons of lubricating oil sold, resulting in an underpayment of the used oil recycling fee totaling \$7,915 as illustrated in the Table below. The accuracy of this information is essential because the lubricating and industrial sales data is required to be reported to the California Legislature by the California Integrated Waste Management Board (Board). The errors occurred due to staff using incorrect reports, omission of sales from a warehouse for one quarter, and the misclassification of sales for two California locations for which an exemption certificate was not provided.

<b>Colorado Petroleum Products Company Used Oil Recycling Fee Returns For the Period July 1, 2006 through June 30, 2007</b>			
<b>Categories</b>	<b>Sales and Fees Per Fee Payer Returns</b>	<b>Sales and Fees Per Colorado Sales Records</b>	<b>Over/(Under Reported)</b>
Industrial Oil Sold (Gallons)	14,160	6,484	7,676
Gross Lubrication Oil Sold (Gallons)	570,446	619,916	(49,470)
Less: Exempt Transactions (Gallons)	0	0	0
Total Lubrication Oil Sold (Gallons Subject to Fee)	570,446	619,916	(49,470)
Underpaid Lubrication Oil Fees (\$0.16 per gallon)	\$91,271	\$99,186	(\$7,915)



The California Public Resources Code, Section 48671 states that every oil manufacturer who sells, or offers to sell, industrial or lubricating oil in California shall report to the Board each month the amount of industrial and lubricating oil sold. Standard business practices require that this information be reported accurately. Furthermore, the California Code of Regulations, Title 14, Section 18626 states that all sales or transfers of lubricating oil in the state by an oil manufacturer are subject to oil recycling fees unless exempted. A seller is exempt from responsibility for the fee when the purchaser certifies in writing to the seller in a timely manner that the lubricating oil will be used in an exempt manner, as provided in Public Resources Code 48650.

Recommendation: Colorado should perform the following:

- Provide training to staff to ensure California Used Oil Recycling Fee Returns are completed accurately.
- For exemption eligibility, obtain exemption certificates from California purchasers for lubricating oil that will be used in an exempt manner.
- Remit the underreported fees of \$7,915 to the Board.

R<sub>RESPONSE</sub>

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September 19, 2008

California Department of Finance  
Office of State Audits and Evaluations  
300 Capitol Mall, Suite 801  
Sacramento, CA 95814

Dear Mr. Botelho,

After reviewing your draft report dated Sept. 15, 2008 we are in agreement with the first two items concerning reporting errors totaling \$2,117.76.

However, we are objecting to the \$5,797.44 for the shipments to Albertson's. We do not see how we could possibly be responsible for the tax on these as:

- 1.) The shipments are made to a national distribution center for Albertson's- and we have no way of knowing what Albertson's does with them- how much actually stays in CA for sale and how much is distributed and shipped to other states for shipment.
- 2.) Albertson's indicated to us that most of their oil in CA goes to Nevada for final sale and argued this point to us - which resulted in the letter in our file that was agreed upon by Albertson's and provided to your auditors that Albertson's would be responsible for the taxes on the oil.
- 3.) Albertson's takes possession of the oil when it is picked up here by common carrier and is the first person or entity to take title to the oil in the state of CA for sale, use or transfer as defined in your public resources code 48619 and according to your revenue code 48650 is therefore the one responsible for the payment.
- 4.) Albertson's indicated to us that since the oil was not transferred to them for use or sale in the state then it was exempt from payment according to revenue code 48650.

If you should have any question I can be reached at 303-294-0302.

Sincerely,

Original signed by:

Lori Hugh, Controller

Cc: Clark Thompson, President

## EVALUATION OF RESPONSE

We received Colorado Petroleum Products Company's (Colorado) response to our audit of the Used Oil Recycling Fee Returns. The following is the Department of Finance, Office of State Audits and Evaluations (Finance), evaluation of the response:

Colorado agrees with Items 1 and 2 in the table below, but disagrees with items 3 and 4. After considering the information presented by Colorado, we determined that the finding will remain as originally stated in the report. The table below summarizes the detailed results of our review.

Item Number	Description	Period	Gallons	Fee Impact (\$0.16/gallon)
1	Over reported 240 gallons due to calculation errors.	September through December 2006	(240)	\$ (38)
2	Under reported 13,476 gallons due to omission of lubricating oil from Colorado-Warehouse 1	January through March 2007	13,476	2,156
	<b>Subtotal Items 1 &amp; 2</b>		<b>13,236</b>	<b>\$2,118</b>
3	Shipment to Distribution Center # 8750, Irvine, CA	Fiscal Year 2006-07	29,178	\$4,668
4	Shipment to Distribution Center # 8795, Vacaville, CA	Fiscal Year 2006-07	7,056	1,129
	<b>Subtotal Items 3 &amp; 4</b>		<b>36,234</b>	<b>\$5,797</b>
	<b>Total Items 1-4</b>		<b>49,470</b>	<b>\$7,915</b>

For Items 3 and 4, we identified 36,234 gallons of lubricating oil shipped to two California addresses for one national distributor based on the Quarterly Customer/Product Sales Analysis and other related documentation. The California Code of Regulations, Title 14, Section 18626 states that all sales or transfers of lubricating oil in the state by an oil manufacturer are subject to oil recycling fees unless exempted. A seller is exempt from responsibility for the fee when the purchaser certifies in writing to the seller in a timely manner that the lubricating oil will be used in an exempt manner, as provided in Public Resources Code 48650. A single letter dated June 5, 2001 from Colorado to the distributor discussing the fees is not equivalent to obtaining exemption certificates from the purchaser in a timely manner for the oil exempted.